IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.9.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.29049 of 2007

S.Balasubramani .. Petitioner

vs.

The Assistant Commissioner,
Excise, Namakkal .. Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondent herein to refund the excess privilege amount of Rs.2,58,333/- for the period between 1.8.2002 and 31.12.2002 after deducting the privilege amount for the period of 31.12.2001 and 31.7.2002 in respect of the IMFL retail shop No.140/2001-2002 under licence No.187/2001-2002 operated by the petitioner at Door No.158, Namakkal Main Road, Manickampalayam, Namakkal District by considering the petitioner's representation, dated 10.7.2007.

For petitioner : Mr.N.Manokaran
For respondent : Mr.A.Arumugam
Additional Government Pleader

O R D E R

1. Mr.A.Arumugam, the learned Additional Government Pleader, takes notice for the respondent.

2. With the consent of the learned counsels appearing on either side, the writ petition is taken up for final disposal.

3. Heard Mr.N.Manokaran, the learned counsel appearing for the petitioner as well as Mr.A.Arumugam, the learned Additional Government Pleader for the respondent.

4. It is submitted by the petitioner that he was granted licence to run an IMFL shop No.140/2001-2002, which was located at Door No.158, Namakkal Main Road, Manickampalayam, Tiruchengode Taluk, Namakkal District. The licence was granted for the period from 31.12.2001 to 30.12.2002. The petitioner had run the IMFL shop from 31.12.2001 upto 31.7.2002. Thereafter, due to the change in policy of the Government of Tamil Nadu, the petitioner could not run the IMFL shop. Therefore, the

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petitioner has preferred the present writ petition praying for refund of the excess privilege amount of Rs.2,58,333/- for the period between 1.8.2002 to 31.12.2002, during which period, the petitioner could not run the IMFL shop.

5. It is submitted by the learned counsel appearing for the petitioner that the issue raised in this writ petition is covered by the Division Bench order of this Court made in W.A.No.2299 of 2003 (batch), dated 18.3.2005, and W.A.No.2447 of 2004 (batch), dated 17.10.2006.

6. Mr.A.Arumugam, the learned Additional Government Pleader appearing for the respondent, has not refuted the claims made on behalf of the petitioner.

7. In such circumstances, based on the averments made by the learned counsels appearing on behalf of the parties concerned and in view of the orders passed by this Court cited above, the writ petition is disposed of directing the respondent to refund the amount due to the petitioner, within a period of six weeks from the date of receipt of a copy of this order, after deducting the amounts due from the petitioner, if any.

The writ petition is disposed of with the above directions. No costs.

sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

lan

To:

The Assistant Commissioner,
Excise, Namakkal

+ 1 cc to Mr.N.Manokaran Advocate SR.NO.55203
+ 1 cc to Govt.pleader SR.NO.55336

TEJ(CO)
RD 19.9.07

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